



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[Docket No. EPA-R02-OAR-2013-0592; FRL-9909-65-Region 2]

**Approval and Promulgation of Air Quality Implementation Plans; New York State;
Redesignation of Areas for 1997 Annual and 2006 24-Hour Fine Particulate Matter and
Approval of the Associated Maintenance Plan**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On June 27, 2013 the New York State Department of Environmental Conservation (NYSDEC) submitted a request for the Environmental Protection Agency (EPA) to approve the redesignation of the New York portion of the New York-New Jersey-Long Island, NY-NJ-CT nonattainment area for the 1997 annual and the 2006 24-hour Fine Particle (PM_{2.5}) National Ambient Air Quality Standards (NAAQS). In conjunction with its redesignation request, New York submitted a State Implementation Plan (SIP) revision containing a maintenance plan for the area that provides for continued maintenance of the 1997 annual and 2006 24-hour PM_{2.5} NAAQS. The submittals included the 2007 ammonia (NH₃), volatile organic compounds (VOC), nitrogen oxides (NO_x), PM₁₀, direct PM_{2.5} and sulfur dioxide (SO₂) emissions inventories submitted to meet the comprehensive emissions inventory requirements of section 172(c)(3) of the Clean Air Act (CAA), and accompanying motor vehicle emissions budgets. EPA is taking final action to approve the requested SIP revisions and to redesignate the New York portion of

the New York-N.J.-New Jersey-Long Island, NY-NJ-CT nonattainment area to attainment for the 1997 annual and the 2006 24-hour PM_{2.5} NAAQS.

DATES: This rule is effective on [insert date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R02-OAR-2013-0592. All documents in the docket are listed in the <http://www.regulations.gov> web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy for public inspection during normal business hours at the Air Programs Branch, U.S. Environmental Protection Agency, Region II, 290 Broadway, New York, New York 10007.

FOR FURTHER INFORMATION CONTACT: Gavin Lau (lau.gavin@epa.gov), Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-4249.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

I. Background and Purpose

On June 27, 2013, the NYSDEC submitted a request to redesignate the New York portion of the New York-N.J.-New Jersey-Long Island, NY-NJ-CT nonattainment area (NYNAA) from nonattainment to attainment for the 1997 annual and the 2006 24-hour PM_{2.5} NAAQS.

Concurrently, NYSDEC submitted a maintenance plan for the area as a SIP revision to ensure continued attainment. NYSDEC provided supplemental submissions to EPA on September 18, 2013, and February 27, 2014, to clarify portions of the redesignation request, maintenance plan, and emissions information.

Specific details regarding EPA's analysis of New York's SIP can be found in the proposed rulemaking published in the Federal Register (FR) on February 11, 2014 (79 FR 8133).

II. What Comments did EPA receive on its Proposal?

EPA received three comments in support of the proposal. No adverse comments were received.

III. What corrections were made to emissions information?

On February 27, 2014, NYSDEC submitted updated information correcting PM₁₀ emissions for eight emissions units. Control efficiencies were not applied to these units which affects how rule effectiveness is calculated. The corrections to the PM₁₀ emissions do not affect the redesignation of the NYNAA for the 1997 annual and the 2006 24-hour PM_{2.5} NAAQS from nonattainment to attainment. Typographical corrections were also made to NH₃ emissions information. The corrections do not affect air quality or EPA's analysis which concludes that the NYNAA meets the requirements for redesignation under section 107(d)(3)(E) of the CAA. The

State's maintenance plan shows that the NYNAA will continue to maintain the 1997 annual and 2006 24-hour PM_{2.5} NAAQS and demonstrates that PM_{2.5} and PM_{2.5} precursor emissions inventories will remain below the attainment year inventories through at least 2025. Tables 5, 6A, 6B, and 6C have been amended for PM₁₀ and NH₃ emissions and now read as follows:

Table 5 - 2007 NYNAA PM_{2.5} Base Year Inventory (in Tons/Year)

Source Sector	VOC	NO _x	PM ₁₀	PM _{2.5}	SO ₂	NH ₃
Point	3,707.01	38,195.94	124,948.39	124,750.31	43,886.32	862.89
Nonpoint	101,481.89	41,899.74	48,054.84	11,621.00	29,513.22	1,960.83
Nonroad	46,026.72	59,512.46	4,170.45	3,899.30	6,052.88	1.96
On road	71,379.46	149,501.91	9,723.36	6,835.30	982.77	3,584.40
Road Dust	N/A	N/A	3,483.59	1,174.60	N/A	N/A
Total	222,595.08	289,110.05	190,380.63	148,280.52	80,435.19	6,410.08

Table 6A: 2007 Emission Totals by Source Sector (tpy) for the NYNAA

Source Sector	VOC	NO _x	PM ₁₀	PM _{2.5}	SO ₂	NH ₃
Point	3,707.01	38,195.94	124,948.39	124,750.31	43,886.32	862.89
Nonpoint	101,481.89	41,899.74	48,054.84	11,621.00	29,513.22	1,960.83
Nonroad	46,026.72	59,512.46	4,170.45	3,899.30	6,052.88	1.96
On road	71,379.46	149,501.91	9,723.36	6,835.30	982.77	3,584.40
Road Dust	N/A	N/A	3,483.59	1,174.60	N/A	N/A
Total	222,595.08	289,110.05	190,380.63	148,280.52	80,435.19	6,410.08

Table 6B: 2017 Emission Totals by Source Sector (tpy) for the NYNAA

Source Sector	VOC	NO _x	PM ₁₀	PM _{2.5}	SO ₂	NH ₃
Point	4,131.72	37,066.75	124,936.11	124,290.57	43,484.29	867.60
Nonpoint	93,790.95	36,640.38	34,306.76	9,403.95	4,412.25	1,915
Nonroad	26,408.16	45,197.21	3,040.77	2,809.06	4,212.42	1.12
On road	33,083.83	68,362.66	7,171.83	3,897.71	939.20	2,340.95
Road Dust	N/A	N/A	2,959.46	954.01	N/A	
Tappan Zee Project	N/A	457.00	N/A	N/A	N/A	
Total	157,414.67	187,724.00	172,414.93	141,355.28	53,048.17	5,124.68

Table 6C: 2025 Emission Totals by Source Sector (tpy) for the NYNAA

Source Sector	VOC	NO_x	PM₁₀	PM_{2.5}	SO₂	NH₃
Point	4,153.64	37,645.59	124,943.65	124,294.66	43,596.39	872.33
Nonpoint	94,698.56	35,467.73	38,066.67	10,126.70	4,389.48	1,924.66
Nonroad	24,737.31	42,773.21	2,519.12	2,290.95	4,599.34	1.05
On road	26,911.17	51,260.81	6,952.22	3,291.09	935.40	2,443.53
Road Dust	N/A	N/A	3,184.31	960.05	N/A	
Total	150,500.68	167,147.34	175,665.97	140,963.45	53,520.61	5,241.57

IV. What is EPA’s Final Action?

EPA has evaluated New York’s redesignation request and determined that it meets the redesignation criteria set forth in the CAA, and is consistent with Agency regulations and policy. EPA is taking several actions on New York’s request. EPA is approving New York’s request for the redesignation of the New York portion of the NY-NJ-CT nonattainment area from nonattainment to attainment for the 1997 PM_{2.5} annual and the 2006 PM_{2.5} 24-hour NAAQS. EPA is approving New York’s maintenance plan for the New York portion of the NY-NJ-CT nonattainment area because it meets the requirements set forth in section 175A of the CAA. EPA is approving the 2007 NH₃, VOC, NO_x, PM₁₀, direct PM_{2.5} and SO₂ emissions inventories as meeting the comprehensive emissions inventory requirements of section 172(c)(3) of the CAA. Additionally, EPA is approving the 2009, 2017, and 2025 motor vehicle emissions budgets for PM_{2.5} and NO_x.

In accordance with 5 U.S.C. 553(d), EPA finds there is good cause for this action to become effective immediately upon publication. A delayed effective date is unnecessary due to the nature of a redesignation to attainment, which eliminates CAA obligations that would otherwise apply. The immediate effective date for this action is authorized under both 5 U.S.C. 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule “grants or recognizes an exemption or relieves a restriction,” and section

553(d)(3), which allows an effective date less than 30 days after publication “as otherwise provided by the agency for good cause found and published with the rule.” The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today’s rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today’s rule relieves New York of the obligation to comply with nonattainment-related planning requirements for this PM_{2.5} Area pursuant to Part D of the CAA. For these reasons, EPA finds good cause under 5 U.S.C. 553(d) for this action to become effective on the date of publication of this rulemaking.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take

effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control.

Dated: April 7, 2014.

Judith A. Enck,
Regional Administrator,
Region 2.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 - [AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart HH - New York

2. Section 52.1670 is amended by adding a new entry to the end of the table in paragraph (e) to read as follows:

§52.1670 Identification of plan.

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(e) * * *

EPA-APPROVED NEW YORK NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Action/SIP element	Applicable geographic or nonattainment area	New York submittal date	EPA approval date	Explanation
* * * * *				
Maintenance plan for the 1997 and 2006 PM _{2.5} National Ambient Air Quality Standards. 2007 attainment year emissions inventory. 2009, 2017, and 2025 motor vehicle emissions budget.	New York portion of the 1997 and 2006 New York-Northern New Jersey-Long Island, NY-NJ-CT, PM _{2.5} nonattainment area	6/27/13 and supplemented on 9/18/13 and 2/27/14.	[Insert date of publication in the Federal Register] [Insert page number where the document begins]	

3. Section 52.1678 is amended by adding new paragraphs (h), (i), and (j) to read as follows:

§ 52.1678 Control strategy and regulations: Particulate matter.

* * * * *

(h) Approval - The maintenance plan submitted on June 27, 2013, and supplemented on September 18, 2013 and February 27, 2014, for the 1997 PM_{2.5} National Ambient Air Quality Standard and the 2006 PM_{2.5} National Ambient Air Quality Standard for the New York portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT, PM_{2.5} nonattainment area has been approved.

(1) The maintenance plan establishes 2009 motor vehicle emission budget for the New York portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT, PM_{2.5} nonattainment area. The budget is allocated as follows: 5,516.75 tons per year for PM_{2.5} and 106,020.09 tons per year for NO_x.

(2) The maintenance plan establishes 2017 motor vehicle emission budget for the New York portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT, PM_{2.5} nonattainment area. The budget is allocated as follows: 3,897.71 tons per year for PM_{2.5} and 68,362.66 tons per year for NO_x.

(3) The maintenance plan establishes 2025 motor vehicle emission budget for the New York portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT, PM_{2.5} nonattainment area. The budget is allocated as follows: 3,291.09 tons per year for PM_{2.5} and 51,260.81 tons per year for NO_x.

(i) Approval - The 2007 attainment year emissions inventory for the New York portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT, PM_{2.5} nonattainment area. This inventory satisfies the comprehensive emission inventory requirements of section 172(c)(3).

(j) Approval- The 2007 base year inventory for PM₁₀ to establish a PM₁₀ emissions inventory for New York County.

PART 81—[AMENDED]

4. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

5. In §81.333:

a. The table entitled “New York—PM_{2.5} (Annual NAAQS)” is amended by revising the entries under “New York-N. New Jersey-Long Island, NY-NJ-CT” for “Bronx County”, “Kings County”, “Nassau County”, “New York County”, “Orange County”, “Queens County”, “Richmond County”, “Rockland County”, “Suffolk County”, and “Westchester County”.

b. The table entitled “New York—PM_{2.5} [24-hour NAAQS]” is amended by revising the entries under “New York-N. New Jersey-Long Island, NY-NJ-CT” for “Bronx County”, “Kings County”, “Nassau County”, “New York County”, “Orange County”, “Queens County”, “Richmond County”, “Rockland County”, “Suffolk County”, and “Westchester County”.

The revisions read as follows:

§81.333 New York.

* * * * *

New York - PM_{2.5} (Annual NAAQS)

Designated Area	Designation ^a	
	Date ¹	Type
* * * * *		
New York-N. New Jersey-Long Island, NY-NJ-CT:		
Bronx County	<u>[insert date of publication in the Federal Register]</u>	Attainment.
Kings County	<u>[insert date of publication in the Federal Register]</u>	Attainment.
Nassau County	<u>[insert date of publication in the Federal Register]</u>	Attainment.
New York County	<u>[insert date of publication in the Federal Register]</u>	Attainment.
Orange County	<u>[insert date of publication in the Federal Register]</u>	Attainment.
Queens County	<u>[insert date of publication in the Federal Register]</u>	Attainment.
Richmond County	<u>[insert date of publication in the Federal Register]</u>	Attainment.
Rockland County	<u>[insert date of publication in the Federal Register]</u>	Attainment.
Suffolk County	<u>[insert date of publication in the Federal Register]</u>	Attainment.
Westchester County	<u>[insert date of publication in the Federal Register]</u>	Attainment.
* * * * *		

^a Includes Indian Country located in each county or area, except as otherwise specified.

¹ This date is 90 days after January 5, 2005, unless otherwise noted.

New York - PM_{2.5} [24-hour NAAQS]

Designated area	Designation for the 1997 NAAQS ^a		Designation for the 2006 NAAQS ^a	
	Date ¹	Type	Date ²	Type
* * * * *				
New York-N. New Jersey-Long Island, NY-NJ-CT				
Bronx County		Unclassifiable/Attainment	<u>[insert date of Publication in the Federal Register]</u>	Attainment.
Kings County		Unclassifiable/Attainment	<u>[insert date of Publication in the Federal Register]</u>	Attainment.
Nassau County		Unclassifiable/Attainment	<u>[insert date of Publication in the Federal Register]</u>	Attainment.
New York County		Unclassifiable/Attainment	<u>[insert date of Publication in the Federal Register]</u>	Attainment.

Orange County		Unclassifiable/Attainment	Insert date of Publication in the Federal Register	Attainment.
Queens County		Unclassifiable/Attainment	Insert date of Publication in the Federal Register	Attainment.
Richmond County		Unclassifiable/Attainment	Insert date of Publication in the Federal Register	Attainment.
Rockland County		Unclassifiable/Attainment	Insert date of Publication in the Federal Register	Attainment.
Suffolk County		Unclassifiable/Attainment	Insert date of Publication in the Federal Register	Attainment.
Westchester County		Unclassifiable/Attainment	Insert date of Publication in the Federal Register	Attainment.
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^a Includes Indian Country located in each county or area, except as otherwise specified.

¹ This date is 90 days after January 5, 2005, unless otherwise noted.

² This date is 30 days after November 13, 2009, unless otherwise noted.

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[FR Doc. 2014-08747 Filed 04/17/2014 at 8:45 am; Publication Date: 04/18/2014]